

the Communications Act.¹⁴⁷ As a practical matter, we expect that various parties will use the information contained in the performance measurement results as bases for determining whether an incumbent LEC is in compliance with the applicable statutory standards. For example, competing carriers may review the measurements to determine whether the incumbent LEC is providing access in a nondiscriminatory manner. In making this determination, parties will inevitably evaluate the results of these measurements using some preestablished set of criteria to determine whether the statutory requirements have been satisfied.

117. Although few parties raised the issue in the initial round of comments, several carriers have recently raised questions about how regulators and competing carriers can use the data generated by performance measurements to evaluate whether an incumbent LEC has adhered to its statutory obligations.¹⁴⁸ We seek comment on whether we should recommend use of a uniform evaluation process that relies on objective criteria. We seek comment on whether such an approach will inject more consistency and predictability into determining whether an incumbent is meeting its statutory obligations. We believe that bringing more consistency and predictability to the evaluation process is supported by the pro-competitive goals of the 1996 Act and would benefit both incumbent LECs and competing carriers.

118. As described above, incumbent LECs must comply with various statutory requirements in their provision of interconnection and access to OSS functions and operator services and directory assistance.¹⁴⁹ We believe that a number of methods for evaluating performance measurements could be used to make an objective determination as to whether an incumbent LEC is meeting these statutory requirements. In particular, the few parties that have addressed this issue have proposed using statistical analysis or performance benchmarks as evaluation methodologies.¹⁵⁰

119. We seek comment on the use of statistical analysis as a method for evaluating an incumbent LEC's compliance with the statutory requirements. In particular, we discuss the merits of different forms of statistical analysis in Appendix B. We ask that commenters review the discussion in Appendix B and respond to the questions contained in that appendix. Among other issues raised in Appendix B, we seek comment on whether statistically significant differences that exist between an incumbent LEC's measurement results and the

¹⁴⁷ For a discussion of these statutory requirements, *see supra* ¶¶ 28, 29, 30.

¹⁴⁸ *See, e.g.*, Letter from Amy G. Zirkle, MCI, to Magalie Roman Salas, Secretary, FCC (filed Nov. 21, 1997) (MCI Nov. 21 *Ex Parte*); Letter from Frank S. Simone, AT&T, to Magalie Roman Salas, Secretary, FCC (filed Feb. 3, 1998) (AT&T Feb. 3 *Ex Parte*).

¹⁴⁹ For a discussion of these statutory requirements, *see supra* ¶¶ 28, 29, 30.

¹⁵⁰ *See, e.g.*, AT&T Feb. 3 *Ex Parte* (proposing use of statistical analysis); MCI Nov. 21 *Ex Parte* (proposing use of performance standards).

measurement results for competing carriers should necessarily indicate that an incumbent LEC is not meeting its statutory obligations. If not, we seek comment on what additional criteria could be used to determine when statistically significant differences indicate noncompliance with statutory obligations.

120. If statistical analysis is used in evaluating an incumbent LEC's performance, we seek comment on whether the incumbent LEC should perform the statistical analysis. We recognize that parties' comments may depend upon the ability to audit such calculations.¹⁵¹ For example, if competing carriers can audit the calculations, they may be willing to have an incumbent LEC perform the analysis. We therefore seek comment on the utility of permitting auditing of any statistical analysis regardless of which party conducts the analysis.

121. A possible use of statistical analysis in evaluating an incumbent LEC's performance in meeting the statutory requirements is to set a threshold standard for judging whether an incumbent LEC's performance warrants further regulatory scrutiny, (*i.e.*, to establish a "safe harbor"). For example, if an incumbent LEC's performance meets a specified threshold (*i.e.*, falls within the safe harbor range), one could conclude that insufficient evidence of discrimination existed to justify further inquiry. Regulatory bodies could then devote their resources to enforcement actions where incumbent LEC performance did not fall within the threshold. Such a procedure would give incumbent LECs a safe harbor, with the assurance that they would not be subject to further regulatory review with respect to measurements which fell within the threshold range. We also seek comment on the utility of establishing such safe harbor schemes, and whether any of the statistical tests described in Appendix B should be used to establish such safe harbors.

122. In addition to the use of statistical analysis, we also seek comment on the utility of performance benchmarks or standards in evaluating an incumbent LEC's adherence to its statutory obligations. Specifically, we seek comment on the situations in which performance benchmarks should apply.¹⁵² We also seek comment on any other methodologies that would further our goal of injecting more consistency and predictability into determining whether an incumbent is meeting its statutory obligations.

123. Finally, we note that some OSS functions and related activities have a retail analog which allow a direct comparison between the performance an incumbent LEC provides

¹⁵¹ We also seek comment in Part V.C. *infra*. on the ability to audit the data and methodologies underlying the performance measurements.

¹⁵² In Part VII.A. *infra*, we tentatively conclude that it is premature to develop specific standards until after we have considered how they might be used and have reviewed actual data.

to itself and the performance it provides to competing carriers.¹⁵³ Other OSS functions and related activities have no direct retail analog and therefore do not allow such a direct comparison. We seek comment on what methods for evaluation should apply to each of these situations.

VII. OTHER ISSUES RAISED BY PETITIONERS

124. In developing model rules, we tentatively conclude that it is not appropriate at this time to undertake certain additional actions requested by petitioners. These additional actions include establishing performance standards, technical standards for OSS interfaces, and remedial measures for non-compliant incumbent LECs. For the reasons discussed below, we decline to pursue these measures at present and seek comment on this tentative conclusion.

A. Performance Standards

125. Several competing carriers, including LCUG, urge the Commission to initiate a rulemaking to establish performance standards or benchmarks.¹⁵⁴ In discussing possible evaluation criteria above,¹⁵⁵ we sought comment on the merits of using performance standards to evaluate whether incumbent LECs comply with their obligations under section 251.¹⁵⁶ Although we believe that it is appropriate to consider how performance standards might be used, we tentatively conclude that it is premature at this time for us to propose specific standards. We understand that several states are considering performance standards and encourage states in these efforts. Nevertheless, we do not believe that we have developed a sufficient record to consider proposing performance standards at this time. There is little in the current record to explain how such standards would be used as a method of evaluating compliance with statutory requirements. Moreover, any model performance standards should be grounded in historical experience to ensure that such standards are fair and reasonable. Because our present record lacks the necessary historical data, we believe that it would be premature for us to develop standards at this point. We tentatively conclude, therefore, that

¹⁵³ In the *Ameritech Michigan 271 Order*, the Commission concluded that the OSS functions associated with pre-ordering, ordering, and provisioning of resold services, and repair and maintenance for both resold services and unbundled network elements all have retail analogs. *Ameritech Michigan 271 Order*, 12 FCC Rcd at 20619, ¶ 140.

¹⁵⁴ LCUG has urged the Commission to develop performance standards that would apply whenever a reasonable incumbent LEC analog does not exist. See LCUG proposal at 5. MCI has also asked the Commission to develop performance standards that would apply to all OSS functions, whether or not a retail analog exists, as a means of determining whether an incumbent LEC is providing "just and reasonable" access. See MCI Nov. 21 *Ex Parte*.

¹⁵⁵ See *supra* Part VI.

¹⁵⁶ Section 251(c)(2), (3), and (4), 47 U.S.C. § 251(c)(2), (3), (4), require that the incumbent LEC provide nondiscriminatory and just and reasonable access.

we should postpone consideration of performance standards until parties have had the opportunity to consider how they would be used and have been able to review actual performance data over a period of time. We seek comment on this tentative conclusion.

B. Technical Standards

126. Certain competing carriers also ask the Commission to consider establishing technical standards for OSS interfaces. These carriers argue that, without standardized OSS interfaces, they must develop multiple interface systems, involving great cost and administrative complexity, in order to communicate with the wide variety of legacy systems and interfaces used by the incumbent LECs. Several competing carriers ask that the Commission immediately undertake a rulemaking to establish technical standards.¹⁵⁷ Others ask the Commission to take action only if industry fora do not make progress in establishing OSS standards.¹⁵⁸

127. We tentatively conclude that it is not necessary at this time for us to address the issue of uniform technical standards for OSS interfaces. We agree that access to OSS through the use of standardized interfaces could facilitate entry into local markets, and we urge incumbent LECs and industry fora to establish uniform standards for such gateway systems as quickly as possible. We note, however, that certain industry bodies, in particular the committees working under the aegis of the Alliance for Telecommunications Industry Solutions (ATIS), are already developing guidelines for electronic interfaces. In fact, most of the commenters, including LCI and CompTel, have recommended that the Commission rely on these committees' efforts to formulate standards for OSS interfaces before initiating action to develop standards. There is little evidence in the record of delay on the part of these committees. To the contrary, ATIS-sponsored committees, such as the Electronic Data Interchange (EDI), Electronic Communications Implementation Committee (ECIC), and Ordering and Billing (OBF) Committees have made significant progress in developing guidelines for electronic OSS interfaces.¹⁵⁹

128. We therefore tentatively conclude that, at least for the time being, these committees provide the appropriate fora to develop guidelines for electronic interfaces. Participants in these groups already have the necessary technical expertise on these issues.

¹⁵⁷ See, e.g., ACSI Comments at 7; Excel Comments at 14-15; MidCom Reply Comments at 3-5.

¹⁵⁸ See, e.g., LCI/CompTel Petition at 22; AT&T Comments at 34-35; Bell Atlantic/NYNEX Comments at 2-3; BellSouth Comments at 20; CompTel Comments at 8; GTE Comments at 4-5; LCI Comments at 6; ITTA Comments at 5-6; MCI Comments at 14; Sprint Comments at 2-3.

¹⁵⁹ These committees have already established an ordering interface standard for most resale and unbundled network element categories, a maintenance and trouble reporting interface standard, and a standard for the billing interface. ATIS's committees are also in the process of developing a standard for a pre-ordering interface. See ATIS, Summary of Industry Guidelines for Operations Support Systems Functions (March 11, 1998).

Moreover, these committees are open to all industry participants. Incumbent LECs and competing carriers, therefore, should be able to participate in developing OSS interface standards that are mutually satisfactory and technically and financially feasible. We welcome comment, however, on any concerns associated with relying on industry bodies to create industry standards.¹⁶⁰

129. We recognize that compliance with industry standards developed through ATIS is voluntary and that not all incumbent LECs may readily comply with these standards. We seek comment on whether, under the model rules, incumbent LECs should implement these technical standards for OSS interfaces within a certain time from the finalization of a standard through the ATIS committees. This would mean that an incumbent LEC would need to provide OSS interfaces meeting the ATIS standards for those requesting carriers that choose to use them. In the *Bell Atlantic/NYNEX Order*, for example, the Commission required Bell Atlantic/NYNEX to "undertake all commercially reasonable efforts" to implement each technical standard or guideline adopted through ATIS for OSS interfaces within six months from its final adoption through ATIS.¹⁶¹ We seek comment on whether our model rules should impose a similar deadline on all incumbent LECs. With respect to existing industry standards, we also seek comment on whether we should recommend, as part of the model rules proposed herein, that these standards be implemented within a certain time, such as six months, from the time that a state adopts the model rules.¹⁶² We seek comment on whether a six-month implementation period is feasible, or whether some other time frame for complying with existing and future standards would be more suitable.

C. Enforcement Mechanisms

130. We also tentatively conclude that it is premature to propose model enforcement mechanisms for violations of OSS requirements. Most competing carriers proposed that the Commission consider monetary penalties and injunctive measures for incumbent LECs that fail to comply with OSS reporting requirements or performance standards.¹⁶³ We do not think that proposing model enforcement mechanisms is appropriate since our focus, at this initial stage, is on issuing guidelines for performance measurements and reporting procedures.

¹⁶⁰ Midcom has stated, for example, that not all segments of the industry can or do participate in formulating standards in industry fora. Smaller carriers, such as Midcom, may not have the resources to participate. Midcom Reply Comments at 3-5.

¹⁶¹ *Bell Atlantic/NYNEX Merger Order*, 12 FCC Rcd at 20071-72, ¶ 183.

¹⁶² *Id.*

¹⁶³ See, e.g., ALTS Comments at 16; AT&T Comments at 31-32; LCI Comments at 10; MCI Comments at 11; Pilgrim Comments at 9-10; WorldCom Comments at 12-13.

VIII. SMALL AND MIDSIZED LECs

131. We seek comment on whether the proposed model performance measurements and reporting requirements will impose particular costs or burdens on small, rural, or midsize incumbent LECs. We seek comment on any modifications that should be considered in issuing guidelines in this area. We recognize, for example, that the proposed reporting requirements may require incumbent LECs to modify existing computer systems to collect the necessary data. We also recognize there may be a certain level of expense involved in generating performance measurements and statistical analyses, if applicable. We therefore seek comment on the expenses involved with the proposed guidelines and the particular burdens they would impose on small, rural, or midsize LECs, if any. We also seek comment on how the proposed model rules should be modified to take into account any particular concerns of these LECs. For example, certain incumbent LECs may believe that the proposed guidelines should be tailored to meet circumstances relating to the areas in which small, rural or midsize LECs are located.

IX. PROCEDURAL MATTERS

A. Ex Parte Presentations

132. This matter shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.¹⁶⁴ Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required.¹⁶⁵ Other rules pertaining to oral and written presentations are set forth in Section 1.1206(b) as well.

B. Initial Paperwork Reduction Act Analysis

133. This Notice contains either a proposed or modified information collection. As part of its continuing effort to reduce paperwork burdens, we invite the general public and the Office of Management and Budget (OMB) to take this opportunity to comment on the information collections contained in this Notice, as required by the Paperwork Reduction Act of 1995, Public Law No. 104-13. Public and agency comments are due at the same time as other comments on this Notice; OMB comments are due 60 days from date of publication of this Notice in the Federal Register. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the

¹⁶⁴ See Amendment of 47 C.F.R. § 1.1200 et seq. Concerning Ex Parte Presentations in Commission Proceedings, GC Docket No. 95-21, Report and Order, 12 FCC Rcd 7348, 7356-57, ¶ 27 (citing 47 C.F.R. § 1.1204(b)(1)) (1997).

¹⁶⁵ See 47 C.F.R. § 1.1206(b)(2), as revised.

Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

C. Initial Regulatory Flexibility Certification

134. As required by the Regulatory Flexibility Act (RFA),¹⁶⁶ the Commission has prepared the present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in the Notice of Proposed Rulemaking (NPRM) on Performance Measurements and Reporting Requirements for Operations Support Systems, Interconnection, and Operator Services and Directory Assistance. Written public comments are requested on the IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the NPRM provided below in Part IX. D. The Commission will send a copy of the NPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.¹⁶⁷ In addition, the NPRM on Performance Measurements and Reporting Requirements for Operations Support Systems, Interconnection, and Operator Services and Directory Assistance and IRFA (or summaries thereof) will be provided in the Federal Register.¹⁶⁸

135. *Need for and Objectives of the Proposed Rule.* We are issuing the NPRM specifically seeking comment on and presenting tentative conclusions on proposed performance measurements and reporting requirements intended to measure whether an incumbent LEC is providing nondiscriminatory access to operations support services (OSS), interconnection, and operator services and directory assistance (OS/DA). We also seek comment on the use of performance standards and other methods to evaluate whether an incumbent LEC is complying with its statutory obligations under section 251. Finally, although we do not set forth proposals in this area, we seek comment on issues related to OSS interface standards and remedial provisions. Based on the comments received in the NPRM, we may issue new rules.

136. *Legal Basis.* The legal basis for any action that may be taken pursuant to the NPRM is contained in sections 1, 2, 4, 201, 202, 222, 251, and 303(r) of the

¹⁶⁶ See 5 U.S.C. § 603. The RFA, see 5 U.S.C. § 601 *et seq.*, has been amended by the Contract with America Advancement Act of 1996, Pub. L. No. 104-131, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

¹⁶⁷ See 5 U.S.C. § 603(a).

¹⁶⁸ See *id.*

Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154, 201, 202, 222, 251, and 303(r).

137. *Description and Estimates of the Number of Small Entities Affected by the Notice of Proposed Rulemaking.* The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by our rules.¹⁶⁹ The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."¹⁷⁰ For the purposes of this order, the RFA defines a "small business" to be the same as a "small business concern" under the Small Business Act, 15 U.S.C. § 632, unless the Commission has developed one or more definitions that are appropriate to its activities.¹⁷¹ Under the Small Business Act, a "small business concern" is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the Small Business Administration (SBA).¹⁷² The SBA has defined a small business for Standard Industrial Classification (SIC) category 4813 (Telephone Communications, Except Radiotelephone) to be an entity that has no more than 1,500 employees.¹⁷³

138. Although affected incumbent local exchange carriers (ILECs) may have no more than 1,500 employees, we do not believe that such entities should be considered small entities within the meaning of the RFA because they either are dominant in their field of operations or are not independently owned and operated, and are therefore by definition not "small entities" or "small business concerns" under the RFA. Accordingly, our use of the terms "small entities" and "small businesses" does not encompass small incumbent LECs. Out of an abundance of caution, however, for regulatory flexibility analysis purposes, we will separately consider small ILECs within this analysis and use the term "small incumbent LECs" to refer to any incumbent LECs that arguably might be defined by SBA as "small business concerns."¹⁷⁴

139. *Total Number of Telephone Companies Affected.* The United States Bureau of the Census (the Census Bureau) reports that at the end of 1992, there were 3,497 firms

¹⁶⁹ 5 U.S.C. §§ 603(b)(3), 604(a)(3).

¹⁷⁰ 5 U.S.C. § 601(6).

¹⁷¹ 5 U.S.C. § 601(3) (incorporating by reference the definition of "small business concern" in 5 U.S.C. § 632).

¹⁷² 15 U.S.C. § 632.

¹⁷³ 13 C.F.R. § 121.201.

¹⁷⁴ 13 C.F.R. § 121.210 (SIC 4813).

engaged in providing telephone services, as defined therein, for at least one year.¹⁷⁵ This number contains a variety of different categories of carriers, including local exchange carriers, interexchange carriers, competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, PCS providers, covered SMR providers, and resellers. It seems certain that some of those 3,497 telephone service firms may not qualify as small entities because they are not "independently owned and operated."¹⁷⁶ For example, a PCS provider that is affiliated with an interexchange carrier having more than 1,500 employees would not meet the definition of a small business. It seems reasonable to conclude, therefore, that fewer than 3,497 telephone service firms are either small entities or small incumbent LECs that may be affected by this order.

140. *Local Exchange Carriers.* Neither the Commission nor the SBA has developed a definition of small providers of local exchange services. The closest applicable definition under the SBA's rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of LECs nationwide of which we are aware appears to be the data that we collect annually in connection with the Telecommunications Relay Service (TRS).¹⁷⁷ According to our most recent data, 1,371 companies reported that they were engaged in the provision of local exchange services.¹⁷⁸ Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, or are dominant we are unable at this time to estimate with greater precision the number of LECs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that fewer than 1,371 small providers of local exchange service are small entities or small ILECs that may be affected by this order.

141. *Description of Projected Reporting, Recordkeeping and Other Compliance Requirements.* We are seeking comment on requiring all incumbent LECs to report on all the measurements set forth in Appendix A. These proposed measurements seek to measure access provided by an incumbent LEC to all five OSS functions, as well as to interconnection and OS/DA. We also seek comment on how often incumbent LECs should provide these measurements, whether and for how long they should retain the measurement data, and whether the incumbent LEC should perform any statistical analysis of the measurement data. Finally we seek comment on reporting procedures, including: (1) whether an incumbent LEC must report separately on performance to itself, any local exchange affiliate, competing

¹⁷⁵ United States Department of Commerce, Bureau of the Census, *1992 Census of Transportation, Communications, and Utilities: Establishment and Firm Size*, at Firm Size 1-123 (1995) (*1992 Census*).

¹⁷⁶ 15 U.S.C. § 632(a)(1).

¹⁷⁷ Federal Communications Commission, *Telecommunications Industry Revenue: TRS Fund Worksheet Data*, Figure 2 (*Number of Carriers Paying into the TRS Fund by Type of Carrier*) (Nov. 1997).

¹⁷⁸ *Id.*

carriers in aggregate, and individual competing carriers; (2) whether an incumbent LEC should only provide performance monitoring reports to an individual competing carrier after receiving a request from the competing carrier for such reports on a regular basis; (3) how frequently an incumbent LEC should provide performance monitoring reports; (4) whether to accord confidential treatment to individual competing carrier information and incumbent LEC retail information; (5) whether an incumbent LEC should make available upon the request of a competing carrier or regulator raw data underlying a report; and (6) whether competing carriers should be entitled to ask for and obtain audits of the data underlying performance reports.

142. *Steps Taken to Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered.* In Part VIII of the NPRM, we seek comment on the expenses involved with the proposed reporting requirements and the particular burdens they would impose on small, rural, or midsize LECs, if any. In Part VIII, we also seek comment on possible alternatives to these proposed measurements and reporting requirements. We note that certain incumbent LECs might propose ways in which the Commission should tailor its proposals to meet circumstances relating to the areas in which small, rural or midsize LECs are located.

143. *Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rule.* None.

D. Comment Filing Procedures

144. Pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's rules, 47 C.F.R. §§ 1.415, 1.419, interested parties may file comments on or before June 1, 1998, and reply comments on or before June 22, 1998. To file formally in this proceeding, you must file an original and four copies of all comments, reply comments, and supporting comments. Please note, however, that comments and reply comments may be filed electronically, as described below. If you want each Commissioner to receive a personal copy of your comments, you must file an original and nine copies. Comments and reply comments should be sent to Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Room 222, Washington, D.C., 20554, with a copy to Janice Myles of the Common Carrier Bureau, 1919 M Street, N.W., Room 544, Washington, D.C., 20554. Parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, International Transcription Services, Inc., 1231 20th Street, N.W., Washington, D.C., 20036. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, 1919 M Street, N.W., Room 239, Washington, D.C., 20554.

145. Comments and reply comments must include a short and concise summary of the substantive arguments raised in the pleading. Comments and reply comments must also

comply with section 1.49 and all other applicable sections of the Commission's rules.¹⁷⁹ We also direct all interested parties to include the name of the filing party and the date of the filing on each page of their comments and reply comments. All parties are encouraged to utilize a table of contents, regardless of the length of their submission.

146. Parties are also strongly encouraged to submit comments and reply comments on diskette. These diskettes may be used to post parties' comments on the Internet. Such diskette submissions would be in addition to and not a substitute for the formal filing requirements addressed above. Parties submitting diskettes should submit them to Janice Myles of the Common Carrier Bureau, 1919 M Street, N.W., Room 544, Washington, D.C., 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible form using WordPerfect 5.1 for Windows software. The diskette should be submitted in "read only" mode. The diskette should be clearly labeled with the party's name, proceeding, Docket No., type of pleading (comment or reply comments), date of submission, and filename with the "*.wp" extension. The diskette should be accompanied by a cover letter.

147. You may also file informal comments or an exact copy of your formal comments electronically via the Internet. To file electronic comments in this proceeding, you may use the electronic filing interface available on the FCC's World Wide Web site at <<http://dettifoss.fcc.gov:8080/cgi-bin/ws.exe/beta/ecfs/upload.hts>>. Only one copy of electronically-filed comments must be submitted. Further information on the process of submitting comments electronically is available at that location and at <<http://www.fcc.gov/e-file/>>.

X. ORDERING CLAUSES

148. Accordingly, IT IS ORDERED that, pursuant to Sections 1, 2, 4, 201, 202, 222, 251, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154, 201, 202, 222, 251, and 303(r), a NOTICE OF PROPOSED RULEMAKING IS ADOPTED.

149. IT IS FURTHER ORDERED that the Commission's Office of Public Affairs, Reference Operations Division, SHALL SEND a copy of this NOTICE OF PROPOSED RULEMAKING, including the Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with the Regulatory Flexibility Act, *see* 5 U.S.C. § 605(b).

¹⁷⁹ See 47 C.F.R. § 1.49.

APPENDIX A

Appendix A sets forth the proposed performance measurements discussed in Part IV of this Notice. The performance measurements are divided into the following general categories: I. Pre-Ordering; II. Ordering and Provisioning; III. Repair and Maintenance; IV. Billing; V. General Issues (including OS/DA); and VI. Interconnection. Each proposed performance measurement contains subsections on the proposed Measurement, Categories, and Exclusions. The Measurement subsection identifies the measurement and the formula to be used for calculating the measurement. The Categories subsection provides a list of the categories to be used in disaggregating the data for the performance measurement. Finally, the Exclusions subsection lists any items that should be excluded from the performance measurement. In reading this Appendix, parties should also refer to Part IV of the Notice for any further clarifications or explanations for a proposed measurement.

I. PRE-ORDERING

Measurement

Average Response Time

$$\left[\frac{\sum [(\text{Query Response Date \& Time}) - (\text{Query Submission Date \& Time})]}{\text{Number of Queries Submitted in Reporting Period}^1} \right]$$

Categories

Competing Carriers

- Due Date Reservation
- Feature Function Availability
- Facility Availability
- Street Address Validation
- Service Availability
- Appointment Scheduling
- Customer Service Records
- Telephone Numbers
- Rejected Query Notices

Incumbent LECs

- Due Date Reservation
- Feature Function Availability
- Facility Availability
- Street Address Validation
- Service Availability
- Appointment Scheduling
- Customer Service Records
- Telephone Numbers
- Rejected Query Notices

Exclusions

- None

¹ A query is defined as an individual request for data.

II. ORDERING/PROVISIONING

A. Order Completion Measurements

Measurement

1. Average Completion Interval

For incumbent LECs:

$$\frac{[\sum[(\text{Completion Date \& Time}) - (\text{Order Submission Date \& Time})]]}{\text{Total Number of Orders Completed in Reporting Period}}$$

For competing carriers:

$$\frac{[\sum[(\text{Date and Time of Notice of Completion}) - (\text{Order Submission Date \& Time})]]}{\text{Total Number of Orders Completed in Reporting Period}}$$

2. Percentage of Due Dates Missed

$$\frac{[\text{Number of Orders Not Completed within Incumbent LEC Committed Due Date and Time During Reporting Period}]}{\text{Total Number of Orders Scheduled for Completion in Reporting Period}} \times 100$$

Categories

Competing Carriers

Incumbent LECs

- Resale Residential POTS
 - dispatch
 - non-dispatch
- Resale Business POTS
 - dispatch
 - non-dispatch
- Resale Specials
 - dispatch
 - non-dispatch
- Unbundled Loops
 - w/ interim number portability (INP)
 - w/o INP
- Unbundled Switching
- Unbundled Local Transport
- Combinations of UNEs
 - dispatch
 - non-dispatch
- Interconnection Trunks

- Retail Residential POTS
 - dispatch
 - non-dispatch
- Retail Business POTS
 - dispatch
 - non-dispatch
- Retail Specials
 - dispatch
 - non-dispatch

Exclusions

- Canceled orders
- Initial order when supplemented by competing carrier
- Incumbent LEC orders associated with internal or administrative use of local services

B. Coordinated Customer Conversions**Measurement****Average Coordinated Customer Conversion Interval**

$$\frac{[\sum[(\text{Completion Date and Time for Cross Connection of an Unbundled Loop}) - (\text{Disconnection Date and Time of an Unbundled Loop})]]}{\text{Total Number of Unbundled Loop Orders for Reporting Period.}}$$

Categories**Competing Carriers****Incumbent LECs**

- Unbundled Loops w/ Number Portability
- Unbundled Loops w/o Number Portability

N/A

Exclusions

- Unbundled loop orders where there is no existing subscriber loop
- Delays due to competing carrier following disconnection of unbundled loop

C. Order Status Measurements

Measurement

1. Average Reject Notice Interval

$$\frac{[\sum[(\text{Date and Time of Order Rejection}) - (\text{Date and Time of Receipt of Order})]]}{\text{Number of Orders Rejected in Reporting Period}}$$

2. Average FOC Notice Interval

$$\frac{[\sum[(\text{Date and Time of FOC}) - (\text{Date and Time of Receipt of Valid Order})]]}{\text{Number of Orders Confirmed in Reporting Period}}$$

3. Average Jeopardy Notice Interval

$$\frac{[\sum[(\text{Date and Time of Scheduled Due Date on FOC}) - (\text{Date and Time of Jeopardy Notice})]]}{\text{Number of Orders in Jeopardy in Reporting Period}}$$

4. Percentage of Orders Given Jeopardy Notices

$$\frac{\text{Number of Orders Given Jeopardy Notices in Reporting Period}}{\text{Number of Orders Confirmed in Reporting Period}}$$

5. Average Completion Notice Interval

$$\frac{[\sum[(\text{Date and Time of Notice of Completion}) - (\text{Date and Time of Completion of Work})]]}{\text{Number of Orders Completed in Reporting Period}}$$

Categories

Competing Carriers

Incumbent LECs

- Resale Residential POTS
 - dispatch
 - non-dispatch
- Resale Business POTS
 - dispatch
 - non-dispatch
- Resale Specials
 - dispatch
 - non-dispatch
- Unbundled Loops
 - w/ interim number portability (INP)
 - w/o INP
- Unbundled Switching
- Unbundled Local Transport
- Combinations of UNEs
 - dispatch
 - non-dispatch
- Interconnection Trunks

- Retail Residential POTS
 - dispatch
 - non-dispatch
- Retail Business POTS
 - dispatch
 - non-dispatch
- Retail Specials
 - dispatch
 - non-dispatch

Exclusions

- | |
|---|
| <ul style="list-style-type: none">• Average FOC Notice Interval - Rejected orders |
|---|

D. Held Order Measurement**Measurement****Average Interval for Held Orders**

$$\frac{[\sum[(\text{Reporting Period Close Date}) - (\text{Completion Date on FOC})]]}{\text{Number of Held Orders for Reporting Period}}$$

Categories**Competing Carriers****Incumbent LECs**

- Resale Residential POTS
 - dispatch
 - non-dispatch
- Resale Business POTS
 - dispatch
 - non-dispatch
- Resale Specials
 - dispatch
 - non-dispatch
- Unbundled Loops
 - w/ interim number portability (INP)
 - w/o INP
- Unbundled Switching
- Unbundled Local Transport
- Combinations of UNEs
 - dispatch
 - non-dispatch
- Interconnection Trunks

- Retail Residential POTS
 - dispatch
 - non-dispatch
- Retail Business POTS
 - dispatch
 - non-dispatch
- Retail Specials
 - dispatch
 - non-dispatch

Exclusions

- Orders cancelled by competing carrier
- Order activities of incumbent LEC that are associated with its internal or administrative use of local services

E. Installation Troubles Measurement**Measurement****Percentage of Troubles in 30 days for New Orders**

[New Service Orders Receiving Trouble Reports \leq 30 Days of Order Completion/Number of New Service Orders Completed in Month] X 100

Categories**Competing Carriers****Incumbent LECs**

- Resale Residential POTS
 - dispatch
 - non-dispatch
- Resale Business POTS
 - dispatch
 - non-dispatch
- Resale Specials
 - dispatch
 - non-dispatch
- Unbundled Loops
 - w/ interim number portability (INP)
 - w/o INP
- Unbundled Switching
- Unbundled Local Transport
- Combinations of UNEs
 - dispatch
 - non-dispatch
- Interconnection Trunks

- Retail Residential POTS
 - dispatch
 - non-dispatch
- Retail Business POTS
 - dispatch
 - non-dispatch
- Retail Specials
 - dispatch
 - non-dispatch

Exclusions

- None

F. Order Quality Measurements**Measurement****1. Percentage of Order Flow Through**

[Number of Orders Electronically Processed Through the Gateway and Accepted Into the Incumbent LEC's Legacy Systems Without Manual Intervention/Number of Orders Submitted in Reporting Period] x 100

2. Percentage of Rejected Orders

[Number of Orders Rejected Due to Error or Omission/Number of Orders Submitted in Reporting Period] x 100

3. Average Submissions per Order

$$\frac{[\sum[(\text{Number of Orders Accepted for Provisioning}) + (\text{Number of Orders Rejected})]]}{\text{Number of Orders Accepted for Provisioning in Reporting Period}}$$

Categories**Competing Carriers****Incumbent LECs**

- Resale POTS
- Resale Specials
- UNEs
- UNE Combinations

- Retail POTS
- Retail Specials

Exclusions

- For Percent Flow-Through: Rejected Orders

G. 911 Database Update and Accuracy**Measurement****1. Percentage of Accurate 911 and E911 Database Updates**

[Number of Database Updates Completed Without Error During Reporting Period/Total Number of Updates Completed During Reporting Period] x 100

2. Percentage of Missed Due Dates for 911 and E911 Database Updates

[Number of Updates Completed by Committed Due Date During Reporting Period/Total Number of Updates Scheduled to be Completed During Reporting Period] x 100

OR Average Time to Update 911 and E911 Databases

$$\frac{[\sum[(\text{Completion Date \& Time}) - (\text{Update Submission Date \& Time})]]}{\text{Total Number of Updates Completed in Reporting Period}}$$

Categories**Competing Carriers****Incumbent LECs**

- All Competing Carrier customer records

- All Incumbent LEC customer records

Exclusions

- None

III. REPAIR AND MAINTENANCE**Measurement****1. Average Time to Restore**

$$\frac{[\sum[(\text{Date and Time Trouble Ticket Resolution Notification Returned to Competing Carrier}) - (\text{Date and Time Trouble Ticket Logged with Incumbent LEC})]]}{\text{Number of Trouble Tickets Resolved in Reporting Period}}$$

2. Frequency of Troubles in 30-Day Period

$$\frac{[\text{Number of Trouble Tickets Received in 30-Day Period} / \text{Number of Service Access Lines in Service At End of Reporting Period}] \times 100$$

3. Frequency of Repeat Troubles in 30-Day Period

$$\frac{[\text{Total Number of Repeat Trouble Reports} / \text{Total Number of Trouble Tickets Received in 30-Day Period}] \times 100$$

4. Percentage of Customer Troubles Resolved Within Estimated Time

$$\frac{[\text{Number of Trouble Tickets Resolved by Estimated Date and Time} / \text{Number of Trouble Tickets Resolved Within Reporting Period}] \times 100$$

Categories**Competing Carriers****Incumbent LECs**

<ul style="list-style-type: none"> • Resale Residential POTS <ul style="list-style-type: none"> - dispatch - non-dispatch • Resale Business POTS <ul style="list-style-type: none"> - dispatch - non-dispatch • Resale Specials <ul style="list-style-type: none"> - dispatch - non-dispatch • Unbundled Loops <ul style="list-style-type: none"> - w/ interim number portability (INP) - w/o INP • Unbundled Switching • Unbundled Local Transport • Combinations of UNEs <ul style="list-style-type: none"> - dispatch - non-dispatch • Interconnection Trunks 	<ul style="list-style-type: none"> • Retail Residential POTS <ul style="list-style-type: none"> - dispatch - non-dispatch • Retail Business POTS <ul style="list-style-type: none"> - dispatch - non-dispatch • Retail Specials <ul style="list-style-type: none"> - dispatch - non-dispatch
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Exclusions

- Trouble tickets that are cancelled by the competing carrier
- Incumbent LEC trouble reports associated with internal or administrative use of local services
- Instances where the customer requests a ticket be "held open" for monitoring

For Frequency of Repeat Troubles only:

- Subsequent trouble reports on maintenance tickets that have not been reported as resolved (or closed)

IV. BILLING**Measurements****1. Average Time to Provide Usage Records**

For competing carriers:

$$\frac{[\sum[(\text{Date and Time Usage Records Transmitted}) - (\text{Date and Time Usage Records Recorded})]]}{\text{Number of Usage Records Transmitted in Reporting Period}}$$

For incumbent LECs:

$$\frac{[\sum[(\text{Date and Time Usage Records Reformatted to an EMR (or equivalent) format}) - (\text{Date and Time Usage Records Recorded})]]}{\text{Number of Usage Records Transmitted in Reporting Period}}$$

2. Average Time to Deliver Invoices

For competing carriers:

$$\frac{[\sum[(\text{Date and Time Invoices Transmitted}) - (\text{Date and Time Bill Cycle Closes})]]}{\text{Number of Invoices Transmitted during Reporting Period}}$$

For incumbent LECs:

$$\frac{[\sum[(\text{Date and Time Invoices Produced in Electronic Format}) - (\text{Date and Time Bill Cycle Closes})]]}{\text{Number of Invoices Produced Electronically during Reporting Period}}$$

Categories**Competing Carriers****Incumbent LECs****1. Average Time to Provide Usage Records**

- End user usage records
- Access usage records
- Alternately billed usage records

2. Average Time to Deliver Invoices

- Wholesale bill invoices
- Unbundled element bill invoices

1. Average Time to Provide Usage Records

- End user usage records
- Access usage records
- Alternately billed usage records

Exclusions

- None

V. GENERAL**A. Systems Availability Measurement****Measurement****Percentage of Time Interface is Available**

[Number of Hours OSS Functionality is Available to Competing Carriers During Reporting Period/Number of Hours OSS Functionality was Scheduled to be Available During Reporting Period] x 100

Categories**Competing Carriers****Incumbent LECs**

- Interface Type
- OSS function

- OSS Function

Exclusions

- None

B. Center Responsiveness**Measurement****Average Time to Answer Competing Carrier Calls**
$$\frac{[\sum[(\text{Date and Time of Call Answer}) - (\text{Date and Time of Call Receipt})]]}{\text{Total Calls Answered by Center}}$$
Categories**Competing Carriers****Incumbent LECs**

- All Competing Carrier Calls

- N/A

Exclusions

- None